



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Testimony of the Connecticut Insurance Department

FTR

Before
The Insurance and Real Estate Committee

February 10, 2011

HB 5444—An Act Concerning the Value of a Totalled Motor Vehicle

The Connecticut Insurance Department would like to offer the following concerns regarding HB 5444—An Act Concerning the Value of a Totalled Motor Vehicle.

Section 38a-353 was amended by the legislature last year to require a new calculation for constructive total loss by: (1) using the NADA used car guide value or (2) any other **publicly available** Commissioner approved source and, then taking an average of that valuation amount (either (1) or (2)) with one other Commissioner approved used car source. To date, The Department has received no requests from any publicly available automobile industry sources for approval by the Commissioner. The Department reached out to the six approved "Second Source" companies (other automobile industry source) but none of those entities are "publicly available" and do not plan to make their data available without a subscription. The Department's view is that a subscription payment constitutes a 'non-publicly available' source.

The Department has received requests from the Auto Body Association of CT to consider specific "publicly available" sources for the Commissioner to approve. Many of these sources turned out to use NADA valuations and their use would be redundant. The Department has reached out to Edmunds and Kelly Blue Book and asked them to submit information on how they determine retail values. If/when received, the Department will analyze those procedures used by these publicly available sources **that do not require a subscription or any cost to the consumer** to ensure that the data is reliable; will remain up-to-date; and is specific to the Connecticut geographic marketplace in much the same way "Second Source" companies have been approved by the Commissioner in the past.

HB 5444 requires the insured and insurer to each provide a "publically available" valuation amount and average those amounts to determine the totalled vehicle settlement amount. This legislation continues the use of "publically available" sources without a precise definition. The Department believes that language is vague since it does not provide objective criteria of what constitutes a "publically available" used car valuation source.

The Department recommends that the pre-2010 statutory provisions should be restored since our available data shows that consumers have filed very few complaints concerning their totalled motor vehicle settlements as calculated by the insurer. From 2008 to 2010, there were 123 complaints of which 16 were found to be justified. If the consumer remains dissatisfied, the Department's arbitration program is made available to the consumer after the Consumer Affairs unit attempts to mediate a settlement between

the parties. If that mediation is unsuccessful, Consumer Affairs offers the consumer the option to avail themselves of the Department's independent arbitration process. That legislatively mandated arbitration program has produced favorable results for Connecticut insureds. Of the 42 cases that were sent to the American Arbitration Association since 2006, 30 of the 42 cases were settled to the benefit of the consumer.